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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,401	12/08/2003	David J. Broel	11287	9772
7590 05/27/2004				
Walter A. Rodgers Rodgers & Rodgers 880 North Island Drive Atlanta, GA 30327				
EXAMINER				
VALENTI, ANDREA M				
ART UNIT		PAPER NUMBER		
3643				

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,401

Applicant(s)

BROEL, DAVID J.

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,290,819 to Turner.

Regarding Claim 1, Turner teaches a cemetery flower holder with a shaft (Turner #10) and multiple extensions (Turner #16 and #14) extending outwardly from the shaft.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,263,614 to Koo.

Regarding Claim 1, Koo teaches a cemetery flower holder with a shaft (Koo #4) and multiple extensions (Koo #18) extending outwardly from the shaft.

Regarding Claim 2, Koo teaches the shaft has a base shaft (Koo #4) and an upper shaft (Koo #12) with a disc (Koo #6 and 8) disposed therebetween.

Regarding Claim 3, Koo teaches the end of the upper shaft remote from the disc is enlarged (Koo Fig. 3 #12)

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,004,635 to Li.

Regarding Claim 1, Li teaches a cemetery flower holder with a shaft (Li Fig. 4 #44) and multiple extensions (Li Fig. 4 #54) extending outwardly from the shaft.

Regarding Claim 2, Li teaches the shaft has a base shaft (Li #44) and an upper shaft (Li #32) with a disc (Li #12) disposed therebetween.

Regarding Claim 3, Li teaches the end of the upper shaft remote from the disc is enlarged (Fig. 4 #32).

Regarding Claim 4, Li teaches the disc has an upper surface and at least one prong extends (Li Fig. 1 #62) upwardly from the upper surface.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,747,494 to Tyson.

Regarding Claim 1, Tyson teaches a cemetery flower holder with a shaft (Tyson Fig. 1 portion above element #30) and multiple extensions (Fig. 1 #34) extending outwardly from the shaft.

Regarding Claim 2, Tyson teaches the shaft has a base shaft (Tyson Fig. 1 portion above element #30) and an upper shaft (Fig. 1 #12) with a disc (Fig. 1 #32) disposed therebetween.

Regarding Claim 3, Tyson teaches the end of the upper shaft remote from the disc is enlarged (Tyson Fig. 1 #12).

Allowable Subject Matter

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


European Patent EP 427637; French Patent FR 2620591; U.S. Patent No. 6,128,855; U.S. Patent No. 649,874; U.S. Patent No. 1,591,845; U.S. Patent No. 5,546,697; U.S. Patent No. 4,386,480.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Examiner
Art Unit 3643

18 May 2004


Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600
5/19/04